

Executive Summary – Enforcement Matter – Case No. 40697

City of Mart

RN101388544

Docket No. 2010-1844-MLM-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MLM - PWS, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Mart, 112 North Commerce Street, Mart, McLennan County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 11, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$48,405

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$43,672

Total Paid to General Revenue: \$148

Total Due to General Revenue: \$4,585

Payment Plan: 35 payments of \$131 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - N/A

Major Source: PWS - Yes

Statutory Limit Adjustment: \$-450

Major Source: WQ - No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40697

City of Mart

RN101388544

Docket No. 2010-1844-MLM-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 12, 2010

Date(s) of NOE(s): October 29, 2010

Violation Information

1. Failed to prevent the unauthorized discharge of other waste into or adjacent to the waters in the state [TEX. WATER CODE § 26.121(a)(2)].
2. Failed to maintain the turbidity level of the combined filter effluent (“CFE”) so as not to exceed 1.0 Nephelometric Turbidity Unit (“NTU”) and not to exceed 0.3 NTU in at least 95% of the samples tested each month [30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and (B) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
3. Failed to measure and record the turbidity level of the CFE at least every four hours [30 TEX. ADMIN. CODE § 290.111(e)(3)(B)].
4. Failed to meet the inactivation requirements of the disinfection process used by the Facility for a period longer than four consecutive hours [30 TEX. ADMIN. CODE § 290.111(d)(1)(D) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
5. Failed to monitor the performance of the disinfectant facilities (disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone) to ensure that appropriate disinfectant levels are maintained and conducted at sites designated in the Facility's monitoring plan [30 TEX. ADMIN. CODE § 290.111(d)(2)(A)].
6. Failed to continuously monitor and record the disinfectant residual of the water entering the distribution system [30 TEX. ADMIN. CODE § 290.110(c)(1)(A)].
7. Failed to maintain a disinfectant residual of at least 0.2 milligrams/liter (“mg/L”) of free chlorine for a period more than four consecutive hours [30 TEX. ADMIN. CODE § 290.110(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
8. Failed to correct the performance-limiting factors identified in the October 2008 Mandatory Comprehensive Performance Evaluation (“MCPE”) Corrective Action Plan (“CAP”) [30 TEX. ADMIN. CODE § 290.111(i)(7)].
9. Failed to measure and record the turbidity level at the effluent of each filter once each day the Facility is in operation [30 TEX. ADMIN. CODE § 290.111(e)(3)(D)(ii)].

Executive Summary – Enforcement Matter – Case No. 40697

City of Mart

RN101388544

Docket No. 2010-1844-MLM-E

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease all unauthorized discharges from the Facility's sludge settling lagoon.
- b. Within 30 days:
 - i. Submit written certification as described in Ordering Provision e. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.
 - ii. Begin maintaining the turbidity level of combined filter effluent below 1.0 NTU and 0.3 NTU in at least 95% of the tested samples;
 - iii. Begin measuring and recording the turbidity level of the CFE at least every four hours;
 - iv. Develop and implement procedures to ensure the inactivation requirements of the disinfection process are met;
 - v. Begin measuring and recording the following: disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone to ensure that appropriate disinfectant levels are maintained and conducted at sites designated in the Facility's monitoring plan;
 - vi. Begin continuously monitoring and recording the disinfectant residual of the water entering the distribution system;
 - vii. Begin maintaining a minimum disinfectant residual of 0.2 mg/L of free chlorine for treated water for a period more than four consecutive hours; and
 - viii. Begin measuring and recording the turbidity level at the effluent of each filter once each day the Facility is in operation.
- c. Within 45 days, submit written certification as described in Ordering Provision e. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions b.ii. through b.viii.

Executive Summary – Enforcement Matter – Case No. 40697

City of Mart

RN101388544

Docket No. 2010-1844-MLM-E

d. Within 180 days:

i. Properly dispose of all Facility wastes in accordance with all applicable regulations and state statutes including both liquid and solid waste or by-product material from operations and recycle decant from the sludge settling lagoon according to Commission standards; and

ii. Correct performance-limiting factors identified during the October 2008 MCPE CAP. Submit a detailed report addressing the corrective measures taken to correct the performance limiting factors, including but not limited to those listed in Section I (Findings of Fact) paragraphs 10.a. through 10.o.

e. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Wanda G. Cornell, Mayor, City of Mart, P.O. Box 360, Mart, Texas 76664

Respondent's Attorney: Charlie Buenger, City Attorney, City of Mart, P.O. Box 360, Mart, Texas 76664



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Nov-2010	Screening	8-Nov-2010	EPA Due	31-May-2008
	PCW	8-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Mart		
Reg. Ent. Ref. No.	RN101388544		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40697	No. of Violations	8
Docket No.	2010-1844-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Water Quality	Enf. Coordinator	Andrea Linson
		EC's Team	Enforcement Team 2

Admin. Penalty \$ Limit Minimum \$50 **Maximum** \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$18,750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 130.0% Enhancement **Subtotals 2, 3, & 7** \$24,375

Notes Enhancement for 14 NOVs with same/similar violations, 10 NOVs with dissimilar violations and two final agreed orders with a denial of liability.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$2,074
Approx. Cost of Compliance \$16,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$43,125

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$43,125

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$42,675

DEFERRAL 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$42,675

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Case ID No. 40697

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	14	70%
	Other written NOVs	10	20%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 130%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 14 NOVs with same/similar violations, 10 NOVs with dissimilar violations and two final agreed orders with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 130%

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(1)(A) and (B) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to maintain the turbidity level of the combined filter effluent ("CFE") so as not to exceed 1.0 Nephelometric Turbidity Unit ("NTU") and not to exceed 0.3 NTU in at least 95% of the samples tested each month. Specifically, at the time of the record review, it was documented that the CFE turbidity readings exceeded 1.0 NTU for the following periods: 12 days in July 2007, two days in August 2007, 17 days in June 2008, five days in July 2008, one day in September 2008 and one day in December 2008. Additionally, the turbidity readings of monthly samples exceeded 0.3 NTU in more than five percent of samples for the following months: 9.5% for July 2007, 9.7% for August 2007, 81.7% for June 2008, 28.0% for July 2008, 5.2% for September 2008 and 15% for February 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to maintain the required turbidity levels could expose customers to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 12

365 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$6,000

Twelve monthly events are recommended, one for each month that had exceedances of the NTU requirement.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$13,800

This violation Final Assessed Penalty (adjusted for limits) \$13,800

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for this violation is addressed in Violation No. 7.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(3)(B)

Violation Description

Failed to measure and record the turbidity level of the CFE at least every four hours. Specifically, at the time of the record review, it was documented that the Respondent did not record the CFE turbidity data for the following periods: 60 four-hour periods in July 2007, 155 four-hour periods in August 2007, 30 four-hour periods in June 2008, 18 four-hour periods in July 2008 and 30 four-hour periods in August 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to measure and record the monitoring results of the CFE could result in customers of the Facility being exposed to significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 5

53 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

Five monthly events are recommended, based on the months the CFE was not measured and recorded.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,750

This violation Final Assessed Penalty (adjusted for limits) \$5,750

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for this violation is addressed in Violation No. 7.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.111(d)(1)(D) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to meet the inactivation requirements of the disinfection process used by the Facility for a period longer than four consecutive hours. Specifically, at the time of the record review, it was documented that the Facility failed to achieve microbial inactivation levels within a four-hour period on June 17, 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to disinfect the water supply for the appropriate length of time could cause customers of the Facility to be exposed to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$230

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	1-Jun-2008	31-May-2011	3.00	\$30	n/a	\$30

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop and implement procedures to ensure that the inactivation requirements for the Facility's disinfection process is met, calculated from the month of the violation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$200	1-Jun-2008	30-Jun-2008	0.00	\$0	\$200	\$200

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide a level of disinfection to meet inactivation requirements during the Facility's disinfection process, calculated during the time period when the Facility failed to meet the inactivation levels during a period exceeding four hours.

Approx. Cost of Compliance

\$400

TOTAL

\$230

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.111(d)(2)(A)

Violation Description

Failed to monitor the performance of the disinfectant facilities (disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone) to ensure that appropriate disinfectant levels are maintained and conducted at sites designated in the Facility's monitoring plan. Specifically, at the time of the record review, it was documented that the Respondent did not monitor the performance of the disinfectant facilities for four days in June 2008, four days in July 2008, six days in August 2008, and 31 days in October 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to monitor the performance of the disinfectant facilities on a daily basis could result in customers of the Facility being exposed significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 4

123 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Four monthly events are recommended, based on the months proper monitoring of the disinfection facilities was not conducted.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$234

Violation Final Penalty Total \$4,600

This violation Final Assessed Penalty (adjusted for limits) \$4,600

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$200	1-Jun-2008	8-Nov-2010	3.36	\$34	\$200	\$234

Notes for AVOIDED costs

The avoided cost includes the estimated amount to utilize procedures to ensure that the following are measured and recorded daily: disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone, calculated from the first month of violation to the screening date.

Approx. Cost of Compliance

\$200

TOTAL

\$234

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.110(c)(1)(A)

Violation Description

Failed to continuously monitor and record the disinfectant residual of the water entering the distribution system. Specifically, at the time of the record review, it was documented that the Respondent did not continuously monitor the disinfectant residual of water entering the distribution system nor perform grab sampling every four hours in lieu of continuous monitoring for five days in June 2008, three days in July 2008, and four days in August 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to properly monitor and record the disinfectant residual on a daily basis could result in customers of the Facility being exposed to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 3

92 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,500

Three monthly events are recommended, based on the months proper monitoring was not conducted.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,800

Violation Final Penalty Total \$3,450

This violation Final Assessed Penalty (adjusted for limits) \$3,450

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$750	1-Jun-2008	5-Jun-2008	0.00	\$0	\$750	\$750
Other (as needed)	\$450	1-Jul-2008	3-Jul-2008	0.00	\$0	\$450	\$450
Other (as needed)	\$600	1-Aug-2008	4-Aug-2008	0.00	\$0	\$600	\$600

Notes for AVOIDED costs

The avoided cost includes the estimated amount for collecting and submitting grab samples every four hours (Six samples per day @ \$25 per sample), calculated for the days when the violation occurred.

Approx. Cost of Compliance

\$1,800

TOTAL

\$1,800

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.110(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to maintain a disinfectant residual of at least 0.2 milligrams/liter ("mg/L") of free chlorine for a period more than four consecutive hours. Specifically, at the time of the record review, it was documented that on August 14, 2008 and January 23, 2009, a disinfectant residual of at least 0.2 mg/L of free chlorine was not maintained for more than four consecutive hours.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to properly disinfect the water prior to making it available to the distribution system could expose customers of the Facility to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$500

\$900

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Two single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$420

Violation Final Penalty Total \$2,300

This violation Final Assessed Penalty (adjusted for limits) \$2,000

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	1-Aug-2008	31-Aug-2008	1.00	\$10	\$200	\$210
Other (as needed)	\$200	1-Jan-2009	31-Jan-2009	1.00	\$10	\$200	\$210

Notes for AVOIDED costs

The avoided costs include the estimated amount for additional oversight that could have avoided or prevented improperly treated water from entering the distribution system, calculated for the months in which the exceedances occurred.

Approx. Cost of Compliance \$400

TOTAL \$420

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.111(l)(7)

Violation Description

Failed to correct the performance-limiting factors identified in the October 2008 mandatory Comprehensive Performance Evaluation ("MCPE") Corrective Action Plan ("CAP"). Specifically, at the time of the record review, it was documented that the Respondent was delinquent on the following 15 corrective actions: (See Attachment A).

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to correct performance-limiting factors identified in the MCPE CAP could result in customers of the Facility being exposed to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

		15	27	Number of violation days
mark only one with an x	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event		x	

Violation Base Penalty \$3,750

Fifteen single events are recommended (one for each corrective action not completed).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,191

Violation Final Penalty Total \$8,625

This violation Final Assessed Penalty (adjusted for limits) \$8,625

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commits or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	12-Oct-2010	30-Nov-2011	1.13	\$19	\$378	\$397
Engineering/construction	\$10,000	12-Oct-2010	30-Nov-2011	1.13	\$38	\$756	\$794
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to correct performance-limiting factors identified in the MCPE CAP, calculated from the date of the record review to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$1,191

City of Mart
2010-1844-MLM-E
Attachment A

1. Develop, document, and implement a corrective maintenance program that ensures the prompt repair or replacement of damaged or inoperative equipment.
2. Develop, document, and implement an effective preventive maintenance program.
3. Update the Operations and Maintenance ("O & M") manual to include an accurate piping diagram showing the location of all the Facilities pipes and valves.
4. Update the O & M manual to accurately describe pumps, motors, impellers, gauges, meters, valves, and other appurtenances currently used at the Facility.
5. Modify the O & M manual to include complete written instructions for: preparing jar test stock solutions, conducting jar tests, and applying results when making chemical feed rate adjustments, beginning and ending production run, properly and completely backwashing the filter and implementing the revised and approved monitoring plan.
6. Update the O & M manual to accurately describe the design, operation and maintenance of the Facility's automatic alarm and shutoff system, an explanation of how to adjust the alarm based on treatment and operational objectives, and the specified actions which must be taken when alarms are triggered.
7. Update the O & M manual to include written procedures for performing and documenting calibrations and performance checks for process monitoring instrumentation used to collect, record, and maintain logs for reportable data.
8. Operators will implement the process control monitoring regimen described in the contact time study revision and revised monitoring plan.
9. Submit a revised monitoring plan for review and approval that documents the monitoring regimen that will be used to evaluate the performance of all major treatment processes at the Facility. Also, describing how often each process will be monitored, identifying the performance target and acceptable ranges for each test, and briefly identify the actions that will be taken if the results are outside the acceptable range.
10. Implement the improvements to the waste stream management facilities in accordance with the requirements of the approved plans and specifications.
11. Submit engineering reports, plans and specifications, prepared by a licensed professional engineer, for proposed improvements to the waste stream management facilities.
12. Public Works Director ("PWD") will ensure that the Facility staff reads and is familiar with the owner's manuals for the solids contact clarifier and if necessary, receives on-site training from the clarifier manufacturer or its local representative.
13. The PWD will provide the TCEQ with copies of training plans, documents and course outlines for review and approval prior to conducting training to satisfy the requirements of their corrective actions.
14. Develop, document, and implement policies and procedures which explicitly prohibit personnel that do not have a Class "C" or higher surface water license from operating the Facility or performing tasks that only licensed operators are allowed to perform.
15. Develop, document and implement policies and procedures to ensure that the Facility's staff and PWD develop a proposed operating budget and present the proposal to the city council in a timely manner.

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(3)(D)(II)

Violation Description

Failed to measure and record the turbidity level at the effluent of each filter once each day the Facility is in operation. Specifically, at the time of the record review, it was documented that the Respondent did not record the turbidity level at the effluent of each filter at least once each day for the following periods: 12 days in June 2008, 14 days in July 2008 and 14 days in August 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to measure and record the the turbidity level at each effluent of each filter could result in customers of the Facility being exposed to significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

		3	92	Number of violation days
mark only one with an x	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

Violation Base Penalty \$1,500

Three monthly events are recommended, calculated for the months the violations occurred.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,450

This violation Final Assessed Penalty (adjusted for limits) \$3,450

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Public Water Supply
Violation No. 8

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for this violation is addressed in Violation No. 7.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Nov-2010	Screening	8-Nov-2010	EPA Due	
	PCW	8-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Mart		
Reg. Ent. Ref. No.	RN101388544		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40697	No. of Violations	1
Docket No.	2010-1844-MLM-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media	Public Water Supply	Enf. Coordinator	Andrea Linson-Mgbeodu
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	91.0% Enhancement	Subtotals 2, 3, & 7	\$2,730
---------------------------	-------------------	--------------------------------	---------

Notes: Enhancement for one NOV with same/similar violations, 23 NOVs with dissimilar violations and two final agreed orders with a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$1,130
Approx. Cost of Compliance: \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,730
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$5,730
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,730
-----------------------------------	-------------------------------	---------

DEFERRAL	0.0% Reduction	Adjustment	\$0
-----------------	----------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,730
------------------------	---------

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Water Quality

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	23	46%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 91%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations, 23 NOVs with dissimilar violations and two final agreed orders with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 91%

Screening Date 8-Nov-2010

Docket No. 2010-1844-MLM-E

PCW

Respondent City of Mart

Policy Revision 2 (September 2002)

Case ID No. 40697

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388544

Media [Statute] Water Quality

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(2)

Violation Description

Failed to prevent the unauthorized discharge of other waste into or adjacent to the waters in the state. Specifically, at the time of the record review, it was noted that an investigation conducted on April 20, 2010, documented that the Respondent continued to allow the unauthorized discharge of decant water from the Facility's sludge settling lagoon into Lake Mart.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Human health and the environment have been exposed to an insignificant amount of contaminants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

202 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended, calculated from the date of the investigation, April 20, 2010, to the screening date, November 8, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,130

Violation Final Penalty Total \$5,730

This violation Final Assessed Penalty (adjusted for limits) \$5,730

Economic Benefit Worksheet

Respondent City of Mart
Case ID No. 40697
Reg. Ent. Reference No. RN101388544
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	20-Apr-2010	30-Nov-2011	1.61	\$54	\$1,076	\$1,130
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to rehabilitate the sludge lagoons to prevent the unauthorized discharge into Lake Mart, calculated from the investigation date documenting the violation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,130

Compliance History Report

Customer/Respondent/Owner-Operator: CN600344048 City of Mart Classification: AVERAGE Rating: 3.25
 Regulated Entity: RN101388544 CITY OF MART Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1550005
 WATER LICENSING LICENSE 1550005
 LOCATION: 112 NORTH COMMERCE STREET, MART, MCLENNAN COUNTY, TEXAS
 TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: November 08, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 08, 2005 to November 08, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/24/2005

ADMINORDER 2005-1219-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for HAA5 in the third quarter of 2004

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for TTHM in the third quarter of 2004

Effective Date: 06/05/2008

ADMINORDER 2007-1456-PWS-E

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to maintain a free chlorine residual of at least 0.2 milligrams per liter ("mg/L") throughout the distribution system at all times.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(5)

Description: Failed to provide an intruder-resistant fence to protect the Facility's raw water pumps.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failed to provide an intruder-resistant fence to protect the Facility's elevated and ground storage tanks.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(D)

Description: Failed to store dry chemicals off the floor in a dry room that is located above the ground and protected against flooding or wetting from floors, walls, and ceilings.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(A)

Description: Failed to provide vacuum breakers on each hose bibb within the plant facility.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failed to post a legible sign that contains the name of the water supply and emergency telephone numbers where a responsible official can be contacted.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)

Description: Failed to design a proper roof slope on the ground storage tank in accordance with American Water Works Association ("AWWA") standards so that no water ponds at any point on the roof and the roof has a slope of less than 0.75 inches per foot.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)

Description: Failed to provide adequate containment facilities for all liquid chemical storage tanks.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failed to maintain the overflow on the facility's storage tanks in strict accordance with current AWWA design standards.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)(i)

Description: Failed to equip each filter with a manually adjustable rate-of-flow controller with rate-of-flow indication or flow control valves with indicators.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

Description: Failed to provide water system records to Commission personnel at the time of the investigation.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failed to seal the wellhead with a gasket or sealing compound to prevent the possibility of contaminating the well water.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(B)

5A THC Chapter 341, SubChapter A 341.033(a)

Description: Failed to employ an additional water works operator for surface water systems that serve more than 1,000 connections with a valid applicable license.

- | | | |
|----|--|-----|
| B. | Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. | Chronic excessive emissions events. | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) | |

- | | | |
|----|------------|----------|
| 1 | 01/20/2006 | (439215) |
| 2 | 03/13/2006 | (456492) |
| 3 | 11/21/2006 | (516896) |
| 4 | 01/22/2007 | (535875) |
| 5 | 08/30/2007 | (571600) |
| 6 | 10/29/2007 | (598594) |
| 7 | 02/15/2008 | (618027) |
| 8 | 08/11/2008 | (687837) |
| 9 | 11/21/2008 | (741130) |
| 10 | 03/30/2009 | (741224) |
| 11 | 04/16/2009 | (742029) |
| 12 | 06/22/2009 | (745305) |
| 13 | 06/25/2010 | (828787) |
| 14 | 09/07/2010 | (828886) |
| 15 | 09/07/2010 | (828914) |
| 16 | 09/07/2010 | (828935) |
| 17 | 09/07/2010 | (828957) |

18 09/07/2010 (828969)
19 09/07/2010 (829073)
20 09/07/2010 (829078)
21 09/07/2010 (829179)
22 10/07/2010 (829198)
23 09/07/2010 (859929)
24 10/08/2010 (864944)
25 11/01/2010 (870413)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/09/2006 (487779) CN600344048
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to design and maintain a water distribution system to provide at all times a minimum pressure of 35 pounds per square inch (psi).

Date: 04/24/2007 (557484) CN600344048
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine or 0.5 mg/L total chlorine as per agency regulations.

Date: 08/31/2007 (828787) CN600344048
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
Description: July 2007 - 12 days with combined filter effluent turbidity above 1.0 NTU.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
Description: July 2007 - 9.5% of the combined filter effluent turbidity readings were above 0.3 NTU, exceeding the 5.0% limit for the month.

Date: 09/11/2007 (828787) CN600344048
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)
Description: July 2007 - 60 4-hour periods when the plant was online but combined filter effluent turbidity data were not collected.

Date: 09/28/2007 (828886) CN600344048
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
Description: August 2007 - 2 days with combined filter effluent turbidity above 1.0 NTU.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
Description: August 2007 - 9.7% of the combined filter effluent turbidity readings were above 0.3 NTU, exceeding the 5.0% limit for the month.

Date: 10/10/2007 (828886) CN600344048
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)
Description: August 2007 - 155 4-hour periods when the plant was online but combined filter effluent turbidity data were not collected.

Date: 10/19/2007 (595745) CN600344048
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to maintain minimum pressures in the distribution system.

Date: 07/31/2008 (685487) CN600344048

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to provide at all times a minimum pressure of 35 pounds per square inch (psi) in the distribution system.

Date: 09/12/2008 (688158) CN600344048

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to provide at all times a minimum pressure of 35 pounds per square inch (psi) in the distribution system.

Date: 10/03/2008 (828957) CN600344048

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(4)
Description: August 2008 - 1 day with low disinfectant residual entering the distribution system for more than 4.0 consecutive hours.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)
Description: August 2008 - 30 4-hour periods when the plant was online but combined filter effluent turbidity data were not collected.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)
Description: August 2008 - 14 days when the plant was online but individual filter effluent turbidity data were not collected.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(2)
Description: August 2008 - 6 days when disinfection profiling data were not collected.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)
Description: August 2008 - 4 days when disinfectant residual leaving the plant was not properly monitored.

Date: 10/03/2008 (828914) CN600344048

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
Description: June 2008 - 17 days with combined filter effluent turbidity above 1.0 NTU.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
Description: June 2008 - 81.7% of the combined filter effluent turbidity readings were above 0.3 NTU, exceeding the 5.0% limit for the month.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(1)(D)
Description: June 2008 - 1 day with low CT for more than 4.0 consecutive hours.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)
Description: June 2008 - 30 4-hour periods when the plant was online but combined filter effluent turbidity data were not collected.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)
Description: June 2008 - 12 days when the plant was online but individual filter effluent turbidity data were not collected.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(2)
Description: June 2008 - 4 days when disinfection profiling data were not collected.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)
Description: June 2008 - 5 days when disinfectant residual leaving the plant was not properly monitored.

Date: 10/03/2008 (828935) CN600344048

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
 Description: July 2008 - 5 days with combined filter effluent turbidity above 1.0 NTU.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
 Description: July 2008 - 28.0% of the combined filter effluent turbidity readings were above 0.3 NTU, exceeding the 5.0% limit for the month.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)
 Description: July 2008 - 18 4-hour periods when the plant was online but combined filter effluent turbidity data were not collected.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)
 Description: July 2008 - 14 days when the plant was online but individual filter effluent turbidity data were not collected.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(2)
 Description: July 2008 - 4 days when disinfection profiling data were not collected.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)
 Description: July 2008 - 3 days when disinfectant residual leaving the plant was not properly monitored.

Date: 11/21/2008 (741130) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2008.

Date: 11/24/2008 (828969) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
 Description: September 2008 - 1 day with combined filter effluent turbidity above 1.0 NTU.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
 Description: September 2008 - 5.2% of the combined filter effluent turbidity readings were above 0.3 NTU, exceeding the 5.0% limit for the month.

Date: 01/14/2009 (829073) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(2)
 Description: October 2008 - 31 days when disinfection profiling data were not collected.

Date: 02/23/2009 (864944) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(i)
 Description: Unpermitted discharge of decant (supernatant) water from a sludge/backwash water lagoon.

Date: 02/26/2009 (723901) CN600344048
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
 30 TAC Chapter 290, SubChapter D 290.46(r)
 Description: Failure to provide at all times a minimum pressure of 35 pounds per square inch (psi) in the distribution system.

Date: 03/30/2009 (741224) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2009.

Date: 04/09/2009 (829078) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
 Description: December 2008 - 1 day with combined filter effluent turbidity above 1.0 NTU.

Date: 04/27/2009 (829179) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(f)(4)
 Description: January 2009 - 1 day with low disinfectant residual entering the distribution system for more than 4.0 consecutive hours.

Date: 03/20/2010 (789785) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to repair a known leak.

Date: 05/11/2010 (829198) CN600344048
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(i)(7)
 Description: May 4, 2010 - Failure to comply with the Corrective Action Plan (CAP) issued following the October 2008 mandatory Comprehensive Performance Evaluation (mCPE)

Date: 06/04/2010 (796419) CN600344048
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to repair a known leak.

Date: 06/11/2010 (859929) CN600344048
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
 Description: February 2010 - 15.0% of the combined filter effluent turbidity readings were above 0.3 NTU, exceeding the 5.0% limit for the month.

- F. Environmental audits. N/A
- G. Type of environmental management systems (EMSs). N/A
- H. Voluntary on-site compliance assessment dates. N/A
- I. Participation in a voluntary pollution reduction program. N/A
- J. Early compliance. N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MART
RN101388544**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1844-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Mart ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Charlie Buenger, City Attorney, presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 112 North Commerce Street in Mart, McLennan County, Texas (the "Facility") that has approximately 1,301 service connections and serves at least 25 people per day for at least 60 days per year.

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not prevent the unauthorized discharge of other waste into or adjacent to the waters in the state. Specifically, at the time of the record review, it was noted that an investigation conducted on April 20, 2010, documented that the Respondent continued to allow the unauthorized discharge of decant water from the Facility's sludge settling lagoon into Lake Mart.
4. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not maintain the turbidity level of the combined filter effluent ("CFE") so as not to exceed 1.0 Nephelometric Turbidity Unit ("NTU") and not to exceed 0.3 NTU in at least 95% of the samples tested each month. Specifically, at the time of the record review, it was documented that the CFE turbidity readings exceeded 1.0 NTU for the following periods: 12 days in July 2007, two days in August 2007, 17 days in June 2008, five days in July 2008, one day in September 2008 and one day in December 2008. Additionally, the turbidity readings of monthly samples exceeded 0.3 NTU in more than five percent of the samples for the following months: 9.5% for July 2007, 9.7% for August 2007, 81.7% for June 2008, 28.0% for July 2008, 5.2% for September 2008 and 15% for February 2010.
5. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not measure and record the turbidity level of the CFE at least every four hours. Specifically, at the time of the record review, it was documented that the Respondent did not record the CFE turbidity data for the following periods: 60 four-hour periods in July 2007, 155 four-hour periods in August 2007, 30 four-hour periods in June 2008, 18 four-hour periods in July 2008 and 30 four-hour periods in August 2008.
6. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not meet the inactivation requirements of the disinfection process used by the Facility for a period longer than four consecutive hours. Specifically, at the time of the record review, it was documented that the Facility failed to achieve microbial inactivation levels within a four-hour period on June 17, 2008.
7. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not monitor the performance of the disinfectant facilities (disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone) to ensure that appropriate disinfectant levels are maintained and conducted at sites designated in the Facility's monitoring plan. Specifically, at the time of the record review, it was documented that the Respondent did not monitor the performance of the disinfectant facilities for four days in June 2008, four days in July 2008, six days in August 2008, and 31 days in October 2008.
8. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not continuously monitor and record the disinfectant residual of the

water entering the distribution system. Specifically, at the time of the record review, it was documented that the Respondent did not continuously monitor the disinfectant residual of water entering the distribution system nor perform grab sampling every four hours in lieu of continuous monitoring for five days in June 2008, three days in July 2008, and four days in August 2008.

9. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not maintain a disinfectant residual of at least 0.2 milligrams/liter ("mg/L") of free chlorine for a period more than four consecutive hours. Specifically, at the time of the record review, it was documented that on August 14, 2008 and January 23, 2009, a disinfectant residual of at least 0.2 mg/L of free chlorine was not maintained for more than four consecutive hours.
10. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not correct the performance-limiting factors identified in the October 2008 mandatory Comprehensive Performance Evaluation ("MCPE") Corrective Action Plan ("CAP"). Specifically, at the time of the record review, it was documented that the Respondent was delinquent on the following 15 corrective actions of the MCPE CAP:
 - a. Develop, document, and implement a corrective maintenance program that ensures the prompt repair or replacement of damaged or inoperative equipment;
 - b. Develop, document, and implement an effective preventive maintenance program;
 - c. Update the Operations and Maintenance ("O & M") manual to include an accurate piping diagram showing the location of all the Facilities pipes and valves;
 - d. Update the O & M manual to accurately describe pumps, motors, impellers, gauges, meters, valves, and other appurtenances currently used at the Facility;
 - e. Modify the O & M manual to include complete written instructions for: preparing jar test stock solutions, conducting jar tests, and applying results when making chemical feed rate adjustments, beginning and ending production run, properly and completely backwashing the filter and implementing the revised and approved monitoring plan;
 - f. Update the O & M manual to accurately describe the design, operation and maintenance of the Facility's automatic alarm and shutoff system, an explanation of how to adjust the alarm based on treatment and operational objectives, and the specified actions which must be taken when alarms are triggered;
 - g. Update the O & M manual to include written procedures for performing and documenting calibrations and performance checks for process monitoring instrumentation used to collect, record, and maintain logs for reportable data;

- h. Operators will implement the process control monitoring regimen described in the contact time study revision and revised monitoring plan;
 - i. Submit a revised monitoring plan for review and approval that documents the monitoring regimen that will be used to evaluate the performance of all major treatment processes at the Facility. Also, describing how often each process will be monitored, identifying the performance target and acceptable ranges for each test, and briefly identify the actions that will be taken if the results are outside the acceptable range;
 - j. Implement the improvements to the waste stream management facilities in accordance with the requirements of the approved plans and specifications;
 - k. Submit engineering reports, plans and specifications, prepared by a licensed professional engineer, for proposed improvements to the waste stream management facilities;
 - l. Public Works Director ("PWD") will ensure that the Facility staff reads and is familiar with the owner's manuals for the solids contact clarifier and if necessary, receives on-site training from the clarifier manufacturer or its local representative;
 - m. The PWD will provide the TCEQ with copies of training plans, documents and course outlines for review and approval prior to conducting training to satisfy the requirements of their corrective actions;
 - n. Develop, document, and implement policies and procedures which explicitly prohibit personnel that do not have a Class "C" or higher surface water license from operating the Facility or performing tasks that only licensed operators are allowed to perform; and
 - o. Develop, document and implement policies and procedures to ensure that the Facility's staff and PWD develop a proposed operating budget and present the proposal to the city council in a timely manner.
11. During a record review conducted on October 12, 2010, TCEQ staff documented that the Respondent did not measure and record the turbidity level at the effluent of each filter once each day the Facility is in operation. Specifically, at the time of the record review, it was documented that the Respondent did not record the turbidity level at the effluent of each filter at least once each day for the following periods: 12 days in June 2008, 14 days in July 2008 and 14 days in August 2008.
12. The Respondent received notice of the violations on November 3, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of other waste into or adjacent to the waters in the state, in violation of TEX. WATER CODE § 26.121(a)(2).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to maintain the turbidity level of the CFE so as not to exceed 1.0 NTU and not to exceed 0.3 NTU in at least 95% of the samples tested each month, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and (B) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to measure and record the turbidity level of the CFE at least every four hours, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(3)(B).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to meet the inactivation requirements of the disinfection process used by the Facility for a period longer than four consecutive hours, in violation of 30 TEX. ADMIN. CODE § 290.111(d)(1)(D) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
6. As evidenced by Findings of Fact No. 7, the Respondent failed to monitor the performance of the disinfectant facilities (disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone) to ensure that appropriate disinfectant levels are maintained and conducted at sites designated in the Facility's monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.111(d)(2)(A).
7. As evidenced by Findings of Fact No. 8, the Respondent failed to continuously monitor and record the disinfectant residual of the water entering the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(1)(A).
8. As evidenced by Findings of Fact No. 9, the Respondent failed to maintain a disinfectant residual of at least 0.2 mg/L of free chlorine for a period more than four consecutive hours, in violation of 30 TEX. ADMIN. CODE § 290.110(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
9. As evidenced by Findings of Fact No. 10, the Respondent failed to correct the performance-limiting factors identified in the October 2008 MCPE CAP, in violation of 30 TEX. ADMIN. CODE § 290.111(i)(7).
10. As evidenced by Findings of Fact No. 11, the Respondent failed to measure and record the turbidity level at the effluent of each filter once each day the Facility is in operation, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(3)(D)(ii).

11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
12. An administrative penalty in the amount of Forty-Eight Thousand Four Hundred Five Dollars (\$48,405) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Forty-Three Thousand Six Hundred Seventy-Two Dollars (\$43,672) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Forty-Eight Dollars (\$148) of the undeferred administrative penalty. The remaining amount of Four Thousand Five Hundred Eighty-Five Dollars (\$4,585) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Thirty-One Dollars (\$131) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Forty-Eight Thousand Four Hundred Five Dollars (\$48,405) as set forth in Section II, Paragraph 12 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are

not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Mart, Docket No. 2010-1844-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges from the Facility's sludge settling lagoon, in accordance with TEX. WATER CODE § 26.121.
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Submit written certification as described in Ordering Provision No. 2.e below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - ii. Begin maintaining the turbidity level of combined filter effluent below 1.0 NTU and 0.3 NTU in at least 95% of the tested samples, in accordance with 30 TEX. ADMIN. CODE § 290.111;
 - iii. Begin measuring and recording the turbidity level of the CFE at least every four hours, in accordance with 30 TEX. ADMIN. CODE § 290.111;
 - iv. Develop and implement procedures to ensure the inactivation requirements of the disinfection process are met, in accordance with 30 TEX. ADMIN. CODE § 290.111;
 - v. Begin measuring and recording the following: disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone to ensure that appropriate disinfectant levels are maintained and conducted at sites designated in the Facility's monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.111;
 - vi. Begin continuously monitoring and recording the disinfectant residual of the water entering the distribution system, in accordance with 30 TEX. ADMIN. CODE § 290.110;
 - vii. Begin maintaining a minimum disinfectant residual of 0.2 mg/L of free chlorine for treated water for a period more than four consecutive hours, in accordance with 30 TEX. ADMIN. CODE § 290.110; and

- viii. Begin measuring and recording the turbidity level at the effluent of each filter once each day the Facility is in operation, in accordance with 30 TEX. ADMIN. CODE § 290.111.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.b.ii through 2.b.viii.
- d. Within 180 days after the effective date of this Agreed Order:
 - i. Properly dispose of all Facility wastes in accordance with all applicable regulations and state statutes including both liquid and solid waste or by-product material from operations and recycle decant from the sludge settling lagoon according to Commission standards, as required by 30 TEX. ADMIN. CODE § 290.42; and
 - ii. Correct performance-limiting factors identified during the October 2008 MCPE CAP, in accordance with 30 TEX. ADMIN. CODE § 290.111. Submit a detailed report addressing the corrective measures taken to correct the performance limiting factors, including but not limited to those listed in Section I (Findings of Fact) paragraphs 10.a through 10.o. The report shall be submitted to:

Utility Creation & Plan Review Team
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087
- e. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

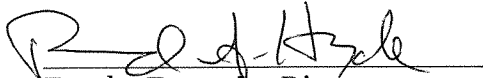
Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

1/17/12

Date

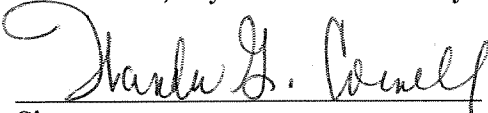
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Mart. I am authorized to agree to the attached Agreed Order on behalf of the City of Mart, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Mart waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

9-26-2011

Date

Wanda G. Cornell

Name (Printed or typed)
Authorized Representative of
City of Mart

Mayor

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.